

DOCKET NO. 152890-001

Serial No. 09/805,646

Application for Patent Term Adjustment



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

The application of: **Mark Grimse et al.**

Confirmation No. **4015**

Serial No.: **09/805,646**

Group Art Unit: **2121**

Filed: **March 13, 2001**

Examiner: **Michael B. Holmes**

Title: **AUTOMATED PROCESS GUIDANCE SYSTEM AND METHOD**

EXPRESS MAIL LABEL NO. EL963418402US

DATE OF DEPOSIT: December 10, 2004

**MAIL STOP ISSUE FEE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**1. APPLICATION FOR PATENT TERM ADJUSTMENT**

Pursuant to 37 C.F.R. § 1.705, Applicants hereby request reinstatement of 171 days of the term reduced pursuant 37 C.F.R. § 1.704(b). This request is being filed with the payment of the issue fee and is accompanied by the fees set forth in 37 C.F.R. §§ 1.18(e)+(f). The facts supporting this request are set forth below.

**Statement of the Facts**

**1. The patent term adjustment for examination delay**

A copy of the Patent Term Adjustment sheet for this application is attached as Exhibit A. As correctly indicated thereon, the USPTO delay is 470 days . The above-identified patent application was filed under 35 U.S.C. § 111(a) on March 13, 2001. Fourteen months from the date the application was filed under 35 U.S.C. § 111(a) was May 13, 2002. A Non-Final Rejection, under 35 U.S.C. § 132, was mailed on August 26, 2003 (see Exhibit A). The date of the Non-Final Rejection was 470 days beyond 14 months from the date the application was filed under 35 U.S.C. § 111(a). Thus, Applicants submit that the correct patent term adjustment is 470 days.

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Application for Patent Term Adjustment

**2. The relevant dates for which adjustment is sought**

Adjustment is not sought for additional delay on the part of the USPTO, but for an incorrect charge of delay to the Applicants. The Patent Term Adjustment sheet (Exhibit A) incorrectly indicates that the Applicants' delay is 176 days, and deducts this period of delay from the patent term adjustment due. This delay appears to be due to the filing of an allegedly late Response to the August 26, 2004 Non-Final Rejection on May 20, 2004 (see Exhibit A).

While the Patent Term Adjustment sheet (Exhibit A) shows the Response to the August 26, 2003 Non-Final Rejection as being filed on May 20, 2004, a review of the Detailed Image File Wrapper Summary, attached hereto as Exhibit B, shows that Applicants, in fact, filed a Response to the August 26, 2004 Non-Final Rejection on December 1, 2003. However, the USPTO lost the December 1, 2003 Response through no fault of the Applicants. As a result, the Examiner never received the December 1, 2003 Response. On May 20, 2004, after a discussion with the Examiner, Applicants forwarded copies of the December 1, 2003 Response and the necessary proof of the December filing to the USPTO (see Transmittal Letter, attached hereto as Exhibit C). Thus, *the period of delay on part of the Applicants is 5 days*, judged from the December 1, 2003 Response filing date, not 176 days. It is inequitable to charge the Applicant for the USPTO's actions in misplacing the Applicant's properly filed Response.

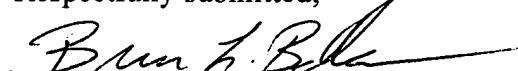
**3. Terminal disclaimer**

The present application is not subject to terminal disclaimer.

**4. Representations regarding reasonable efforts**

With the exception of the 5 day delay noted above, to the undersigned's knowledge, there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in 37 C.F.R. § 1.704.

Respectfully submitted,



Brian L. Belles

Registration No. 51,322

COZEN O'CONNOR, P.C.

1900 Market Street, 5<sup>th</sup> Floor

Philadelphia, PA 19103-3508

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Date: December 10, 2004

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09/805,646

AUTOMATED PROCESS GUIDANCE SYSTEM AND METHOD

## Patent Term Adjustment History

<b>Patent Term Adjustment (PTA) for Application Number: 09/805,646</b>			
			<b>Days</b>
Filing or 371(c) Date:	03-13-2001	USPTO Delay (PTO):	470
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay(APPL):	176
Post-Issue Petitions (days):	+0	Total PTA:	294
USPTO Adjustment(days):	+0	Explanation Of Calculations	

<b>Patent Term Adjustment History</b>			
<b>Date</b>	<b>Contents Description</b>	<b>PTO(Days)</b>	<b>APPL (Days)</b>
09-15-2004	Mail Notice of Allowance		
09-14-2004	Correspondence Address Change		
09-14-2004	Change in Power of Attorney (May Include Associate POA)		
09-14-2004	Issue Revision Completed		
09-14-2004	Notice of Allowance Data Verification Completed		
09-14-2004	Notice of Allowability		
07-02-2004	Reference capture on IDS		
07-02-2004	Date Forwarded to Examiner		
05-20-2004	Information Disclosure Statement (IDS) Filed		
05-20-2004	Response after Non-Final Action	↑	176
05-20-2004	Workflow incoming amendment IFW	↑	↑
12-01-2003	Information Disclosure Statement (IDS) Filed	↑	↑
08-26-2003	Mail Non-Final Rejection	470	
08-22-2003	Non-Final Rejection	↑	
08-18-2003	Case Docketed to Examiner in GAU	↑	
12-07-2001	Application Dispatched from OIPE	↑	
11-15-2001	Application Is Now Complete	↑	
04-04-2001	Correspondence Address Change	↑	
03-31-2001	IFW Scan & PACR Auto Security Review	↑	
03-13-2001	Initial Exam Team nn	↑	

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09/805,646

AUTOMATED PROCESS GUIDANCE SYSTEM AND METHOD

Image File Wrapper

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click StartDownload.

Mail Room Date	Document Description	Page Count
09-15-2004	Notice of Allowance	4
09-15-2004	Notice of Allowance	3
09-15-2004	List of References cited by Applicant	2
09-15-2004	List of references cited by Examiner	2
09-15-2004	Issue Information on File Wrapper	1
09-15-2004	Bibliographic Data Sheet	1
09-15-2004	Claims recorded on File Wrapper	1
09-15-2004	Search info on File Wrapper	1
09-14-2004	Miscellaneous Action with SSP	2
09-06-2004	Examiner Search Notes	28
08-31-2004	Change in Power of Attorney (May include Associate POA)	4
08-31-2004	Miscellaneous Incoming Letter	2
05-20-2004	Amendment	1
05-20-2004	Specification	1
05-20-2004	Claim	3
05-20-2004	Applicant Arguments or Remarks Made in an Amendment	4
05-20-2004	Information Disclosure Statement	4
05-20-2004	Miscellaneous Incoming Letter	6
12-01-2003	Amendment	1
12-01-2003	Specification	1
12-01-2003	Claim	3
12-01-2003	Applicant Arguments or Remarks Made in an Amendment	4
12-01-2003	Information Disclosure Statement	4
12-01-2003	NPL Documents	8
12-01-2003	NPL Documents	29

12-01-2003	Miscellaneous Incoming Letter	2
08-26-2003	Non-Final Rejection	14
08-26-2003	List of references cited by Examiner	1
08-26-2003	Notice of Formal Drawings Required	1
08-18-2003	Examiner Search Notes	31
10-16-2001	Miscellaneous Incoming Letter	7
10-16-2001	Drawings	19
10-16-2001	Extension of time from Applicant - filed as separate letter	1
10-16-2001	Transmittal of New Application	2
10-16-2001	Drawings	19
09-17-2001	Miscellaneous Action with SSP	1
07-30-2001	Miscellaneous Incoming Letter	6
07-30-2001	Drawings	19
07-30-2001	Extension of time from Applicant - filed as separate letter	1
04-05-2001	Miscellaneous Action with SSP	1
03-13-2001	Issue Information on File Wrapper	1
03-13-2001	Search info on File Wrapper	1
03-13-2001	Claims recorded on File Wrapper	1
03-13-2001	Transmittal of New Application	6
03-13-2001	Drawings	19
03-13-2001	Specification	40
03-13-2001	Claim	3
03-13-2001	Abstract	1
03-13-2001	Oath or Declaration filed	26
03-13-2001	Fee Worksheet (PTO-875)	1
03-13-2001	Fee Worksheet (PTO-875)	1
03-13-2001	Transmittal of New Application	4
03-13-2001	Specification	40
03-13-2001	Claim	3
03-13-2001	Abstract	1
03-13-2001	Drawings	21
03-13-2001	Oath or Declaration filed	22

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### FAX TRANSMISSION COVER SHEET

May 20, 2004

<u>To:</u>	<u>Telephone:</u>	<u>Fax Number:</u>
U.S. Patent and Trademark Office	1-703-308-6280	1-703-746-5423
Attn.: Examiner Holmes		

From: Timothy W. Lohse Attorney Docket Number: 1040659-991101  
650-833-2055

Re: U.S. Patent Application:  
Serial No.: 09/805,646 Filing Date: March 13, 2001  
Examiner: Michael B. Holmes Art Unit: 2121  
Title: AUTOMATED PROCESS GUIDANCE SYSTEM

Pages: - 19 - (including this form) Originals:  will be mailed  will not be mailed

If there is a problem with this transmission, please call (650) 833-1548  
Fax Operator/Ext.

**Message:**

Attached are a cover letter from Timothy Lohse and copies of the following documents:

1. Transmittal Form;
2. Fee Transmittal;
3. Response to Office Action;
4. Information Disclosure Statement;
5. Check; and
6. Stamped return postcard listing the above documents;

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Attention Examiner Holmes, at Fax No. 703-746-5423 on May 20, 2004

Cathy Pittman  
Cathy Pittman

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(Form Rev. 6/5/00)

Gray Cary\EM17166346.1

PAGE 1/19 \* RCVD AT 5/20/2004 2:00:18 PM [Eastern Daylight Time] \* SVR:USPTO-EXRF-2/2 \* DNI:7465423 \* CSID:650 833 2001 \* DURATION (mm:ss):05:56

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 OJ 650-833-2055  
 FJ 650-833-2001

May 20, 2004  
 VIA FACSIMILE - 703-746-5423

OUR FILE NO. 1040859-991101

Examiner Holmes  
 United States Patent and Trademark Office

**Re: Submission of Response to Office action dated August 26, 2003  
 U.S. Patent Application Serial No. 09/805,646**

Dear Examiner Holmes:

Per your request, attached are true and correct copies of the following documents that were submitted by myself on November 26, 2003 via first class mail in response to an office action mailed on August 26, 2003:

- 1) a transmittal form (with a signed certificate of first class mailing);
- 2) a fee transmittal;
- 3) a response to the office action (with a signed certificate of first class mailing);
- 4) an Information Disclosure Statement (with a signed certificate of first class mailing);
- 5) a check in the amount of \$180; and
- 6) a return postcard listing the above documents and stamped by the US Patent Office indicating receipt of the above documents on December 1, 2003.

Very truly yours,

Gray Cary Ware & Freidenrich LLP



Timothy W. Lohse  
 tlohs@graycary.com

TWL:twl  
 Enclosures  
 Gray CaryEM7166341.1  
 1040859-991101

PTO/SB/21 (08-03)

Approved for use through 07/31/2008. OMB 0651-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b> <i>(To be used for all correspondence after initial filing)</i>		Application Number	09/805,648
		Filing Date	March 13, 2001
		First Named Inventor	Mark Grinse et al.
		Art	2121
		Examiner	Michael B. Holmes
Total Number of Pages in This Submission	1	Attorney Docket Number	1040659-991101

FACT AVAILABLE COPY

ENCLOSURES (Check all that apply)			
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to Group	
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences	
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)	
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information	
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address	<input type="checkbox"/> Status Letter	
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> Other Enclosure(s) (please identify below):	
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	<input type="checkbox"/> 13 References	
<input checked="" type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> Return Postcard	
<input type="checkbox"/> Certified Copy of Priority Document(s)	Remarks		
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 07-1896. A duplicate copy of this sheet is enclosed.		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	Customer No. 26379		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual	Timothy W. Lohse, Reg. No. 38,255 Gray Cary Ware & Freidenrich LLP
Signature	
Date	November 26, 2003

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed	Kathleen LaBrie	Date	November 26, 2003
Signature			

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

American LegalNet, Inc.



GRAY CARY WARE &amp; FREIDENRICH

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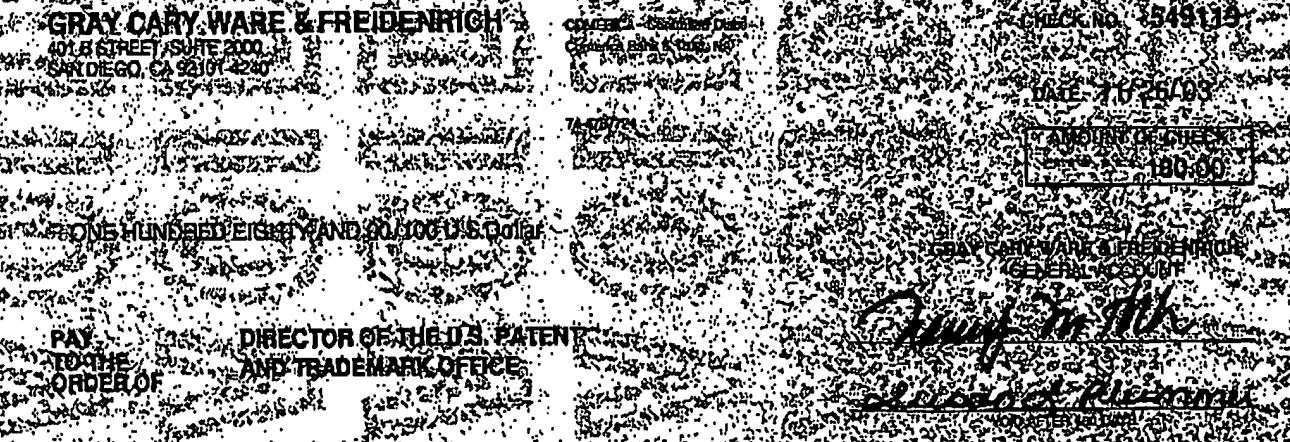
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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Mailing Date: November 26, 2003  
U.S. Serial No.: 09/805,646  
Filing Date: March 13, 2001  
Title: Automated Process Guidance System And Method

## Enclosed are:

- 1) Transmittal Form (in duplicate);
- 2) Fee Transmittal (in duplicate);
- 3) Response to Office Action;
- 4) Information Disclosure Statement w/ PTO Form/SB/08a & b;
- 5) Thirteen (13) references;
- 6) Certificate of first class mailing;
- 7) Return Postcard.

1040659-991101 (Kadiri Inc.)  
TWL/12074/kd

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Mailing Date: November 26, 2003  
U.S. Serial No.: 09/805,646  
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- 7) Return Postcard.

1040659-991101 (Kadiri Inc.)  
TWL/12074/kd

